

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

KENNETH M. SMITH, )  
                          )  
Petitioner,            )  
                          )  
v.                     ) Civ. No. 05-262-SLR  
                          )  
THOMAS CARROLL,        )  
Warden, and CARL C.    )  
DANBERG, Attorney     )  
General for the State   )  
of Delaware,            )  
                          )  
Respondents.            )

**ORDER**

At Wilmington this 26<sup>th</sup> day of July, 2006, consistent  
with the memorandum opinion issued this same date; IT IS  
HEREBY ORDERED that:

1. Petitioner Kenneth M. Smith's application for a  
writ of habeas corpus pursuant to 28 U.S.C. § 2254 is  
DISMISSED, and the relief requested therein is DENIED.  
(D.I. 1)
2. Petitioner's motion for representation by counsel  
and for an evidentiary hearing is DENIED as moot. (D.I. 16)
3. The court declines to issue a certificate of  
appealability for failure to satisfy the standard set forth  
in 28 U.S.C. § 2253(c)(2).

  
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UNITED STATES DISTRICT JUDGE